

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **19 AUG 2005**

Applicant's or agent's file reference

EX05-013C-PC

FOR FURTHER ACTION

See paragraph 2 below

International application No

PCT/US05/10969

International filing date (day/month/year)

31 March 2005 (31.03.2005)

Priority date (day/month/year)

31 March 2004 (31.03.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): C07D 277/20 and US Cl.: 548/200

Applicant

EXELIXIS, INC.

1 This opinion contains indications relating to the following items:

- ☒ Box No I Basis of the opinion
- ☐ Box No II Priority
- ☒ Box No III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No IV Lack of unity of invention
- ☒ Box No V Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No VI Certain documents cited
- ☐ Box No VII Certain defects in the international application
- ☐ Box No VIII Certain observations on the international application

2 FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66 1bis(b) that written opinions of this International Searching Authority will not be so considered

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later

For further options, see Form PCT/ISA/220.

3 For further details, see notes to Form PCT/ISA/220

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Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No
PCT/US05/10969

Box No. 1 Basis of this opinion

1 With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item

- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2 With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b format of material

- ☐ in written format
☐ in computer readable form

c time of filing/furnishing

- ☐ contained in international application as filed
☐ filed together with the international application in computer readable form
☐ furnished subsequently to this Authority for the purposes of search

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished

4 Additional comments:

WRITTEN OPINION OF THE
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

I The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application
☒ claims Nos. 1-35 and 37-61

because:

- ☐ the said international application, or the said claim Nos _____ relate to the following subject matter which does not require an international preliminary examination (*specify*):

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos 1-35 and 37-61 are so unclear that no meaningful opinion could be formed (*specify*):

The numerous variables, e.g., X, Y, Z, N, L, R1, R2, R3, R4, etc. ... and their voluminous, complex meanings and their virtual incomprehensible permutations and combinations make it impossible to determine the full scope and complete meaning of the claimed subject matter. As presented, the claimed subject matter cannot be regarded as being a clear and concise description for which protection is sought and as such the listed claims do not comply with the requirements of PCT Article 6. Thus it is impossible to form a meaningful written opinion on these claims. A written opinion will be provided for the first discernable invention, which is Claim 36, limited to compounds containing the same core.

- ☐ the claims, or said claims Nos _____ are so inadequately supported by the description that no meaningful opinion could be formed
- ☐ no international search report has been established for said claims Nos _____
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- | | |
|----------------------------|--|
| the written form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions
- ☐ See Supplemental Box for further details.

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Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. Statement

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>36</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>36</u>	NO
Industrial applicability (IA)	Claims <u>36</u>	YES
	Claims <u>NONE</u>	NO

2 Citations and explanations:

Claim 36 does not meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the first discernable invention in this application, which is the first compound of Claim 36, wherein W is -N(R⁵)R⁶; X is S or O; L is -C(O); R¹ is H; R² is H; R³ is H; and R⁴ is C1-6 alkyl, and it's related compounds in Claim 36, and therefore it does not possess novelty and inventive step over the prior art of Takasugi et al, Gordon et al, and JP 2001-163802

Claim 36 does meet the criteria set out in PCT Article 33(4), and thus has industrial applicability because the subject matter claimed can be made or used in industry